IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 1ST JANUARY 2007 / 11TH POUSHA 1928

WP(C).No. 34325 of 2006(H)

PETITIONER:

T.M.UMMER, S/O.MAMMU,
AGED 52 YEARS, BLG.NO.PP VI 487,
NEAR KRISHI BHAVAN, KOTTALI.

BY ADV. SRI.C.K.SREEJITH

RESPONDENTS:

1. KADAVATH PURAYIL KUNHAMINA,
D/O.HASSAINAR, AGED 50 YEARS, NO OCCUPATION.

2. KADAVATH PURAYIL ANWAR, S/O.KUNHAMINA,
AGED 37 YEARS.

3. KADAVATH PURAYIL HANEEFA,
S/O.KUNHAMINA, AGED 34 YEARS.

4. KADAVATH PURAYIL SANEER,
S/O.KUNHAMINA, AGED 29 YEARS.

5. KADAVATH PURAYIL AMER,
S/O.KUNHAMINA, AGED 25 YEARS.

6. KADAVATH PURAYIL MEHABOOB,
S/O.KUNHAMINA, AGED 22 YEARS.

7. KADAVATH PURAYIL MEHAROOF,
S/O.KUNHAMINA, AGED 19 YEARS.

ALL IN KADAVATH PURAYIL HOUSE, KUNHIPALLY,
KOTTALI P.O. , KANNUR.

BY/

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.A. ABDUL GAFOOR & K.R. UDAYABHANU, JJ

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W.P.(C). NO. 34325 OF 2006

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Dated this the 1st day of January 2007

JUDGMENT

Abdul Gafoor, J

The grievance of the Writ petitioner, a tenant under the 1st respondent, is that execution proceedings are at his door steps to evict him. A reading of the averments reveals that an order of eviction has been passed against the petitioner, in RCP No. 59/2000 on the ground available to the landlord under section 11 (4)(iv) of the Kerala Building (Lease and Rent Control) Act, 1965. An appeal has been filed by the petitioner before the Appellate Authority as RCA No. 192/2002, which has been dismissed for default in the year 2006 almost after elapse of 4 years. It was against the said dismissal of default I.A. No. 1498/2006 was preferred before the appellate authority. It is in the meanwhile that the petitioner is facing execution proceedings. In this writ petition the attempt is to avert such execution proceedings awaiting orders in the I.A. No. 1498/2006, from the

appellate authority. We are of the view that if the petitioner has reason to believe that he would be evicted during the pendency of the said application he can move the appellate authority for advancing such application and to get decision thereon or even seeking appropriate orders of stay of the execution proceedings.

In such circumstances, we find no reason for interference in this case. The Writ Petition is dismissed accordingly.

K.A. ABDUL GAFOOR, JUDGE

K.R. UDAYABHANU, JUDGE.

RV